

***United States Court of Appeals
for the Second Circuit***



**BRIEF FOR
APPELLANT**

76-7497
76-7497

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AN APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JAMES L. DILLARD

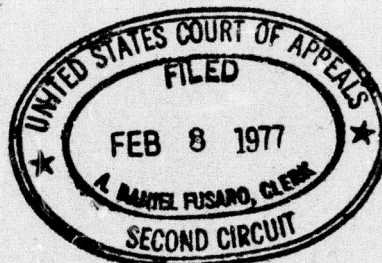
against-

PEOPLE OF THE STATE OF NEW YORK, ET. AL.

B

P/S

JAMES L. DILLARD, Pro. Se.
114-54 201st Street.
St. Albans, New York 11412
Tel. No. 464-9498



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
.....

JAMES L. DILLARD,
Appellant

-Against-

PEOPLE OF THE STATE OF NEW YORK, :
Et. Al., Respondents :

Docket No. 76-7497

APPENDIX TO BRIEF

.....

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF NEW YORK.

RECORD

- 1..... Complaint and summons
- 2..... Order of Judge Mishler. dismissing complaint.
- 3..... Judgement- that the plttf take nothing of the
defendants
- 4..... Notice of Appeal- filed.
- 5..... Notice of motion, returnable 10/15/76
- 6..... Notice of Motion, returnable 10/15/76 for non-
compliance with subpoena.
- 7..... Letter dtd 10/12/76 from Annabelle B. Dillard.
- 8..... Memorandum and order decicion denial od motion
to reconsider dismissal.
- 9..... Telegram to JUDGE Mishler informing him of the
City of New Yrk sequesting property of the plttf.
- 10.....

APPEAL

- 1..... NOTICE OF APPEAL
- 2..... Notice of motion to enlarge time for filing
appeal.
- 3..... Copy of reconsideration of order to j.
- 4..... Exhibit #1 & 2 Copies of affidavits from/ the
clerk of the Family Court and Probation Officers
Bila and Jacoby

Page #2, Appendix to appeal to Court of Appeals.

Appeal- Continued

- 5..... Copy of letter sent to the Elmhurst Hospital
dtd Oct. 7, 1966 by Mrs Bila, proving perjury.
- 6..... Copy of the hospital record. (Not complete)
- 7..... Copy of my 1976 income tax return showing that
the appellant had no income this year as in the
several years before, although I worked for aprox-
imately (8) eight months during the year.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

76-7497

No. 76 Civ. 1658

JAMES L. DILLARD,
Appellant

PEOPLE OF THE STATE OF NEW YORK, ET. AL.,
Defendants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

BRIEF FOR THE APPELLANT

OPINION BELOW

The Record contains the order of Hon. Jacob Mishler,
chief Judge, United States District Court, for the East-
ern District of New York.

JURISDICTION

Omitted by permission of Rule (5 - B).

QUESTION PRESENTED

1. Whether it is constitutional to apply the U.S.
Constitution and Statutes against the defendants herein.

2. Whether the judges in the United States are to
support the U.S. Constitution and it's Statutes impartially.

a. ~~X~~ Article Four of the United States Constitution pro-
vides full faith and credit shall be given in each state to
the public acts of every other state.

b. The 14th amendment....No State shall deprive any person
of life, liberty and property without due process of law and
equal protection of the laws.

OFFICE OF CLERK OF COURT
DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

77 JAN 26 P 1:03

LAW OFFICE
CITY OF NEW YORK

-2-

3. Whether the dismissal of a complaint by a judge which was not formally presented to him for action.

A. The Plaintiff-Appellant alleges that an affidavit to appear in forma pauperis to the judge and this was the only for him to decide.

4. Did the dismissal of the complaint against the City and State of New York a discriminative act, since it did not include the remaining defendants.

a. THIS WAS A POLITICAL ACT.

5. Did the above act constitute a protective order for the City and State of New York.

6. Does this impartial act violate the judicial canons of the State of New York and the U. S. Judiciary.

7. Does this act as did the acts similar in the State Courts that have prevented me from having my day in court in violation of the U. S. Constitution.

8. Does the dismissal of a summons and complaint which demanded a jury trial supercede the jurisdiction of a trial or sitting judge.

a. The plaintiff-Appellant has reasons to believe that if such is to happen all cases there would never be a jury trial.

9. Since, the plaintiff-Appellant has challenged the conduct waged against him on constitutional grounds IS HE ENTITLED TO TEST SAME IN A JURY TRIAL.

10. Does it matter ~~consider~~ considering that in all of the searches made by the Plaintiff-Appellant have not turned any evidence that any other citizen has been persecuted, maliciously prosecuted, stripped of civil service employment, and are now stripping me of ownership of 'Real Property without a probable cause and in violation of the 14th amendment of U.S. Constitution. The Plaintiff-Appellant herein also alleges that the subsequent conduct and punishment violates

the (8th) eighth amendment of the U.S. Constitution

SOME FACTS

The appellant does not intend to try the case against the defendants in the brief to this court. My only reason before this tribunal is to get a real live jury trial in the United States District Court for the Eastern District of New York.

As depicted in the complaint to the District Court I gave brief references as to how the defendants 'kicked me around' for years beginning with the Family Court, Queens County.

When my disturbed wife went to the Family Court, made charges against me-(THE FAMILY COURT WITHOUT INVESTIGATION) took my liberty and persecuted and maliciously prosecuted me over the next (10) ten years all without a probable cause. Naturally, I protested the treatment and challenged this conduct in the courts for the past (14) fourteen years. For this I have systematically reduced to a pauper. (ABIG FALL FROM THE GOODLIFE MY FAMILY ENJOYED IN THE PAST.

I prolonged the agony when I refused to go down or submit to the torture. Subsequently the long armed tactics were used in an attempt to knock me out.

When the above did not work as planned my adversaries looked bad in the light of those who knew what was happened. Therefore an allout campaign was initiated to cover-up the ill deeds. Here is some of the things done to entrap me:

- a. Various violation were placed on property falsely in an attempt to force me to try for a deal with the inspectors of the Building Department. THE PLAINTIFF-APPELLANT HAVING BEEN A CONTRACTOR SPECIALIZING IN VIOLATION REMOVAL was right at home.
- b. They went to another house owned by my wife and me threaten RENT CONTROL. - THIS WAS STOPPED WHEN I TOOK ALL INVOLVED TO COURT.

- c. Various schemes were used such as:
My former employer the New York City Transit Authority was tapped to the 'DIRTY WORK'. THEY MADE ONE MISTAKE WHEN THEY TOOK ME OUT OF THE REGULAR POLICE AND MADE ME A CLERK - THIS WAS IN REALITY PROTECTION (I HAD ALREADY BEEN WARNED OF WHAT MIGHT HAPPEN.
- d. Secondly, when all of the above did not work I was stripped of my job entirely without a probable cause.

The Brooklyn Union Gas Company was brought into the act by the New York City Housing and Development Administration, another part of the 'long arm' The Building Department placed 57 violations on the 1430 Pacific Street building none of which really existed.

The Building Department continued to harrass me in the building 216 Reid Avenue, Brooklyn, even, when I notified them that this building was taken off the rent rolls. THIS HOUSE STILL REMAINS CLOSED EXCEPT FOR A STORE ON THE GROUND FLOOR

The H.D.A. solicited the Bedford Stuyvesant Youth in Action, a poverty agency Federally and City funded to work with the youths in the Bedford Stuyvesant area, to harrass me and assist an indigent tenant in suing me for \$ 10,000.00 poportedly due to a fall within the property. A traverse action proved the claim of service was 'SEWER SERVICE' and could not possibly have been made.

CONCLUSION

I SHALL GO ON RECORD AS ALLEGING THAT THERE IS NO NEED FOR CITATIONS BECAUSE IN MANY RESPECT THIS CASE IS A FIRST AND ARE NO SIMILAR CASES.

I FURTHER ALLEGE THAT JUST THE SERIES OF CIRCUMSTANCES AND EVENTS, CONDUCT, AND CRIMES AND PUNISHMENT WAGERED AGAINST ME IN IT'S SELF VIOLATES MY CONSTITUTIONAL RIGHTS.

TOSUJECT ANYONE TO SUFFERING ETC. DIFFERENTLY THEN OTHERS IN MY SITUATION VIOLATES THE 14th AMENDMENT OF THE US COND.

CITATION: Equal Protection and secuety should be given to all under like circumstances in the enjoyment of their prsonal and civil rights ---No greater burden should be laid upon one than are laid upon others in the same calling and condition. Barber v Connolly 113 U.S. 27-31.

WHEREFORE, I, JAMES L. DILLARD, plaintiff-appellant in the heerein appeal knows of no other way of life than to demand to be treated as my fellow man. Therefore I pray to this great court only for a reasonable chance to bring my adversaries to trial before a jury as a right. Further, I pray that I shall accept any other reasonable alternative that will afford the appellant a fairly good life in the remaining days on this earth. I ask all of this under the supremacy ~~fixing~~ clause of the 14th amendment of the United States Constitution.

P.S. I am really a pauper as I have earned only 6,600.00 since 1969. The City ~~of~~ of New York's Real Estate Department has taken my real property in Brooklyn without a notice and a probable cause in violation of the 'DUE PROCESS' clause of the 14th amendment.

For your information:

James L. Dillard
JAMES L. DILLARD, Pro. Se.,
114-54 201st Street,
St. Albans, New York 11412
Tel. No. 464-9498

UNITED STATES COURT OF APPEALS,
SECOND CIRCUIT

.....; Docket No. -
JAMES L. DILLARD, 76 Civ 7497
Plaintiff-Appellant ;
-against- ; A F F I D A V I T
PEOPLE OF THE STATE OF NEW YORK, ET.AL., ; ^uSupporting Limited
; Brief
.....;

STATE OF NEW YORK.....)
COUNTY OF KINGS.....) SS

I, JAMES L. DILLARD, duly sworn according to
law, deposes and says that :

1. I am a citizen of the City and State of
New York.

2. I am making this affidavit in an attempt
establish that within the State of New York judicial system
I have been prevented from having in court. This allegation
is based on the following:;

a. It is unconscionable to think that a citizen
who was self supporting, a taxpayer, and conduct that is spot-
less. talented in many ways which should have enhanced the
means of making a good living.

b. It should not have mattered that the Plaintiff-
Appellant herein chose to work in Civil Service. This was be-
cause he he desired at the end of his career a civil service
pension.

c. It is shameful that a wife who went to the Fam-
ily Court and her whole family is suffering from what the
Court did under disguise of helping her. NOW IT TURNS OUT THAT
GREATEST HARM DONE is that which was done by the court and what
it did to cover-up the error it committed by not investigating
the matter as was done consistently by the respondent to the
Family Court matter. - (A DISMISSAL FORTHWITH WOULD HAVE PRE-
VENTED ALL THE PROBLEMS WE NOW HAVE.

Page #2, Affidavit to Appeal

d. It is highly unusual when a litigant can connect all of the crimes and conduct waged against him directly back to a sub-division of the State and the City in which he lives. -(AS A TAXPAYING CITIZEN HE IS ENTITLED TO ALL OF THE SAME PROTECTION OF THE LAW THAT HIS NEIBORS AND FELLOW CITIZEN GET.)

e. It is utterly redicilous that this conduct has never desisted even, when litigation was pursued. The motive is to batter me into submission, which I shall not do.

f. Now, I have come to that situation again wher I have to criticize the action of a judge. (DEMANDED A JURY TRIAL IN THAT I EXPECTED ALL DICISIONS TO BE MADE BY THAT JURY. Especially those crucial questions. CITE-
- THE RIGHT TO A JURY TRIAL IS A SUBSTANTIAL CONSTITUTIONAL RIGHT NOT WITHIN THE DESCETION OF THE JUDGE. Schenck Vs Prudential Ins. Co of America 167 Misc. 282, - 3 N.Y.S. 2d 856.

PLEASE TAKE JUDICIAL NOTICE that the plaintiff- Apellant is not presenting exhibits because what is essential to this case is to have his defendants to appear and establish a good reason for the conduct waged against him and/or bring proof to do what they did did not discriminate and/or that proof that others were treated simular.

I offer that I have had violations against me that are violate of the Article 1, Section 1 and 2 of the N.Y. State constitution, Sections #6 & 11 of that Article of the New York State Constitution.

I offer that I have been denied a right to work at my chosen occupation, I have had violation agsinst my real property and the finally sequesting of (1) house without due process, I have been harrassed, persecuted, intimidated and maliciously prosecuted by the defendants as charged in the summons and complaint- (I ALLEGE THAT THIS COMPLAINT WAS DUBED AS MALICIOUS without any type of test as to the validity of the charges.

Page #3, Affidavit to brief.

Now I shall allege that the judge had in his possession enough information to really grant a 'DIRECTED VERDICT' infavor of the appellant without a trial. He had information before him that would prove that Mrs Bila, supervisor of Probation in the Family Court did claim that I threaten my wife and members of the Family Court - See Exhibit #5 a letter to the hospital dtd October 7, 1966. He also had before him affidavits from Mrs Bila and Jacoby also from Mr. Edmund Murphy, Clerk of the Family Court stating that they were never threatened by me, they were the only personnel I really know. The hospital record I am presenting to show that 'HOW COULD DOCTORS DETERMINE A STATUS OR CONDITION WHICH WAS PERJURED TO THEM!' Now I am submitting a copy of my 1976 income tax which will show that I had a minus income for the year as had been in the past several years. He also had before him information showing that I had lost my employment, and other things done to me also information that the City of New York had taken my last property without a probable cause. ~~XXXXXXXXXXXX~~

WHEREFORE, I, JAMES L. DILLARD, plaintiff-appellant in this appeal FIRST pray for a jury trial of the defendants herein in the District Court, Eastern District of New York, SECOND a reconsideration of my pauperis status in accordance with the income report submitted Exhibit #7. THIRD, declare a moratorium in this matter and order the defendants to call a conference for a possible settlement of all matters, if not, any other means to solve this and other matters as this court may deem proper and fit.

Page #4, Affidavit to Brief.

Yours, Etc.,

James L. Dillard
JAMES L. DILLARD, Pro. Se.,
114-54 201st Street,
St. Albans, New York 11412

SIGNED AND SWORN BEFORE ME THIS

26th DAY OF JANUARY, 1977.

Robert C. Bircbaum

ROBERT C. BIRCBAUM
Commissioner of Deeds
City of New York - No. 2-1013
Certificate filed in Kings County
Commission Expires Sept. 1, 1977

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JAN 26 1977

CITY OFFICE

ATTORNEY GENERAL

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DEPARTMENT OF LAW

JAN 26 1977

NEW YORK CITY OFFICE

Lois G. Kohn

ATTORNEY GENERAL

Exhibits

76-7497

rec

1-25-77

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AN APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JAMES L. DILLARD

_against-

PEOPLE OF THE STATE OF NEW YORK, ET. AL.

OFFICE OF LEGAL COUNSEL

77 JAN 25 P 1:03

LAW DEPARTMENT
CITY OF NEW YORK

JAMES L. DILLARD, Pro. Se.
114-54 201st Street,
St. Albans, New York 11412
Tel. No. 464-9498



Department of Probation
Family Court Services Division
Queens Service Branch
153-30 89th Avenue
Jamaica, New York 11432
Telephone: 990 -

BEST COPY AVAILABLE

October 12, 1976

U.S. District Court for the
Eastern District of New York
225 Cadman Plaza
Brooklyn, New York 11201

Attention: Calendar Clerk

Re: DILLARD vs. PEOPLE
Your Case 76C-1658
Our Case # F 2517/74

Dear Sir:

Please note Supboena was served October 12, 1976.

Mr. & Mrs. James Dillard have been known to this court
for sometime. There is no indication of Mr. Dillard
threatening Mrs. Jacoby or me at anytime.

The record may be subpoenaed if further information is
required.

Very truly yours,

Cammilla Billa
(Mrs.) CAMMILLA BILLA
SUPERVISOR

S.A. Jacoby
(Mrs.) S.A. JACOBY
Probation Officer

David Fisher
DAVID FISHER

Commissioner of Depts
City of New York 4-1883
Commissioner Sports Sept. 1, 1978

CB/hk

77 JAN 26 P 1: 03

#1

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

-----X
James L. Dillard,
Plaintiff

- vs. -

People of the State of New York
and Ten (10) Others

76C - 1658

Queens County Family Court
Docket Number F.2643-63

-----X
State of New York } ss
County of Queens

TO THE DISTRICT COURT:

The undersigned respectfully shows that:

I am the Clerk of Court of the Family Court of the State of New York,
City of New York, County of Queens.

The above-captioned Family Court proceeding was filed in the Family
Court of Queens County on November 12, 1963.

Since November 12, 1963 I have discussed said proceeding with
James L. Dillard in my office on approximately twenty occasions.

To the best of my recollection, James L. Dillard never threatened
in my presence to harm me or any other employee of the Family Court.

Edmond C. Murphy
Clerk of the Court
Family Court - Queens County

#2

Sworn to before me this
12th day of October, 1976

Joseph Michael Greenberg
Notary Public

UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF NEW YORK
.....

76C- 1658

JAMES L. DILLARD,
Plaintiff
-Against-
PEOPLE OF THE STATE OF NEW YORK,
AND (10) TEN OTHERS
Defendants
.....

PETITION FOR RECONSIDER-
ATION OF SUMMONS AND
COMPLAINT.

TO: HONORABLE JACOB MASHLER,
Chief Judge of the U.S. D.C.,
Eastern District of New York.
225 Cadman Place,
Brooklyn, New York 11201

Dear Sir:

Your order has upset all of my thinking and learning as a Political Science major in college, in so doing I think your decision is premature, especially without a conference whereby I could have presented information to you that have convinced you that my charges are not frivolous nor malicious, especially when considering the conduct and crimes committed against me. (I HAVE PROOF OF ALL I CLAIM AND MORE. What is more serious is that the persecution and harrassment of the past is still continuing against me.

When we consider that these action was initiated originally against me for purportedly not supporting my family THIS WHOLE THING IS UN-AMERICAN.

In a conference I could prove some of the enumerated things:

1. The most damaging act was of the Family Court judge committing me into a hospital- INOW HAVE PROOF THAT THEY HAD NO REASON AND THE REASON GIVEN WAS PERJURED.
2. When charges were brought against me if they had been investigated we would not be here now.
3. That the children of thsi family lived in family owned property from birth to majority. all purchased by me. You should see it now.
4. My son is a retarded individual (30) thirty Years old now living with my wife and me. My daughter is (27) living and studying for a doctorate degree at Columbia University.

#3

Petition to Judge Mishler.

5. Although I've had no salary income from 1969 until may of 1976 I have been able to help my daughter and family.
6. It is inconceivable that I shall have to still suffer from these perjured charges of years ago. especially since my children have grownup.
7. Naturally, I protested the fact that the Family Court or any other person or persons who wanted me to rear my children by a court order. This was never necessary as on the inception of the action in the Family Court I was making more money than most black men with the same job and resources. (I WORKED A CIVIL SERVICE JOB AN OPERATED A SMALL CONTRACTING BUSINESS WITH A PARTMENER WHILE ATTEMPTING TO BUILD A WORKING CAPITAL AND AQUIRE EQUIPMENT. The action in the Family Court ended all of this.
8. I'm a man with better than average intelligence, this I'm told from various test. I come from a family, southern heritage, with (3) three generations of business experience.
9. I differed with a Family Court Judge who said, "that my problems with my family stemmed from the real estate we owned in Brooklyn. TIME HAS PROVEN THAT I WAS THE EXPERT IN THAT AREA, RATHER THAN THE JUDGE. I was removed from my employment and I refused to continue in what I called my secondary source of income. yet, I've survived solely from the management of this property living of the depreciation and self attrition. Although I shall admit that inflation and the 'Oil Crisis' have cause me to close one house.
10. Now, I think that it is un-American that agencies, Bureaus of the State and it's sub-divisions have declared war on me.... I had told Chief Justice Warren E. Berger of the U.S. Supreme Court that I was going to commit one violent just to get my day in court. I thought this cause him to see that I got my day in court, inseed, he had the F.B. I. and the Secret Service men to investigate me. I hope that what has happened to me won't push me into this way of thinking again.
11. This conspiracy has couased me to have no salary income for seven (7) years. I have passed very high of Civil Service examinations locally and federal with marks all over 100% including veterans preference. The stigma of having been removed from my law enforcement employment and not being able to explain why, has caused me to rejected from replacement employment.
12. It has been a policy of the Transit Authority to place an employee in another position when it was thought that he could not perform his regular job. (THE AUTHORITY DURING THE RECENT MONEY CRISIS WHEN POLICE OFFICERS WERE LAID OFF THEY WERE GIVEN 'RAILROAD CLERK JOBS. I WAS WAS NOT AFFORDED THIS OPORTUNITY ALTHOUGH I

Petition to Judge Mishler.

HAD WORKED THIS POSITION FOR (4) FOUR YEARS PRIOR TO BECOMING A POLICE OFFICER, NOT TO MENTION THAT I NOW STAND #297 ON A CURRENT LIST FOR RAILROAD CLERK OUT (9,000) NINE THOUSAND ON A LIST NOT BEING USED ACCORDING TO MY KNOWLEDGE.

13. The jurisdictional amount demanded in this action is secondary. I have worked hard and long for the public and I should be enjoying a pension. I did nothing to lose this privilege, yet, it has been taken away from me without a probable cause. All I have attempting to do is to remove the stigma from my name and be allowed to live out the remainder of my days in a respectful manner.

WHEREFORE, I, JAMES L. DILLARD, petitioner herein for reconsideration of your order and prays that you order a conference be held on the matter and/or let it go to trial and then if I shall lose I will forget this matter for ever.

For your consideration;

James L. Dillard
JAMES L. DILLARD, Pro. Se.
114-54 201st Street,
St. Albans, New York 11412
Tel. No. 464-9498

P.S. Attached hereto is a copy of a Notice of Appeal.

I am hoping the Notice will not be necessary if you rule favorable on this petition for reconsideration. jld

THE CITY OF NEW YORK DEPARTMENT OF HOSPITALS

HOSPITAL

Chart No. 9336

PROGRESS RECORD

Name James Dillard Admitted 19 Ward B11

Observations and Opinions of Visitings, Consultants and House Staff.
A Final Discharge Note Must Be Entered on This Sheet. Sign and Date Every Entry.

c.c. Court remand due to default in payment of ~~alimony~~ support for his family

It was remanded subsequent to a recent hearing in court in which his wife claimed that he has threatened her. He has been seen by the court psychiatrist and admitted that he would harm his wife if angered. He states to me that if he loses his job as a policeman he would kill his wife, however he states also that if he is forced to bear the present burden he would cease to work.

He gives a long list of involvement in family courts starting in 1950 when he & wife were in court over a store they were running together. They then have been numerous contacts with the court regarding difficulties in their financial arrangements and in 1963 they separated and he has commenced the application in man-
agement of his estate. A series of court proceedings and this has
been a long process. It

114-54 201st Street,
St. Albans, N.Y. 11412.
October 12, 1976

DISTRICT COURT OF THE U.S.,
Eastern District of N.Y.,
215 Cadogan Plaza,
Brooklyn, New York 11201

Dear Sir:

I am Annabelle B. Dillard, wife of James L. Dillard, defendant in this action. I am writing this letter to clarify one question- Did my husband threaten me? The answer is no, his sole objection in the Family Court was ~~he~~ refused to voluntarily support his children by court order. To back up the former statement he never lived ^{with} me while I had a case active in the Family Court.

He claimed and still says that he can prove that had the Family Court investigated the charges and/or would have allowed him to defend against the charges, he would have been vindicated.

Although I thought I was right when I went to the Family Court, the results have been futile, yet, I still think my husband should have a fair trial.

For your information:

ANNABELLE B. DILLARD,
114-54 201st Street,
St. Albans, N.Y. 11412
Tel. No. 464-9498

RECORD
#7

COPY OF THE WHITMAN PAPER
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JAN 26 1977

NEW YORK CITY OFFICE
Lawrence J. Liskowitz
ATTORNEY GENERAL